BACKGROUND

To: Interested Parties
From: The Office of Senator Joe Donnelly
Re: Trump Administration's Efforts to Undermine the Health Care System
Date: June 20, 2017

UPDATE: Tomorrow, Wednesday June 21, Indiana's insurers will submit their proposed health care rates for 2018 to the Indiana Department of Insurance—the first step in a routine process that determines how much Hoosiers will pay for health coverage. The 2018 filings, however, are likely to be anything but routine as mounting evidence suggests that actions taken by the Trump administration, by themselves, are creating instability in the insurance markets and threatening significant cost increases for consumers.

While Senator Donnelly is among the first to acknowledge that Congress must act to improve the Affordable Care Act to encourage market stability and ensure greater affordability, actions taken by the Trump administration and its inaction in other areas is undermining our health care system. Senator Donnelly spoke on the Senate floor Monday to highlight how the Administration has destabilized and created chaos in our health care system. To watch the speech click here.

Both public and private analyses released earlier this year showed that the individual marketplaces were relatively stable and improving, and that insurers, on average, were getting closer to break-even margins.

A March 2017 analysis from the non-partisan Congressional Budget Office said that "under current law, most subsidized enrollees purchasing health insurance coverage in the nongroup market are largely insulated from increase in premiums…The subsidies to purchase coverage combined with the penalties paid by uninsured people stemming from the individual mandate are anticipated to cause sufficient demand for insurance by people with low health care expenditures for the market to be stable."

An April 2017 Standard & Poor's (S&P) report found that "2016 results and the market enrollment so far in 2017 show that the ACA individual market is not in a 'death spiral.'" The analysis found the health insurance market is set for stability and profitability as long as the Administration is not "disruptive."

However, despite the fact that experts have said the individual health insurance market has been showing signs of stabilization, moving toward profitability, the Administration, along with Congressional Republicans, have put this progress at risk.

Timeline of Undermining the Health Care System

- ***President Trump Signs an Executive Order Undermining the Law***

  On January 20, 2017, his first day in office, President Trump signed an executive order telling federal agencies, to the extent permissible, to exempt, delay, or defer any Affordable Care Act provisions that impose a cost or penalty on individuals. Health insurers and experts have been clear that undermining the enforcement of the individual responsibility requirement will weaken the risk pool, which in turn drives up premiums. The Congressional Budget Office estimated that repealing this provision could raise premiums by up to 20 percent and that "substantial uncertainty about enforcement of the individual mandate" could lead insurers to withdraw from the marketplace.

- ***The Trump Administration Deliberately Undercuts Outreach and Enrollment Efforts***

On January 26, 2017, the Trump Administration cut 75 percent of television advertising and all digital advertising for the final week of health insurance enrollment, resulting in an estimated 500,000 fewer Americans purchasing coverage. Based on previous open enrollments, the last week has been proven a critical time for enrolling younger, healthier enrollees. The U.S. Department of Health and Human Services Inspector General is now investigating the Administration's actions to end outreach activities abruptly before the open enrollment period ended.

- ***President Trump Will Not Commit to Making Consumer Cost-Sharing Reduction Payments, Creating Market Instability***

  President Trump continues to threaten to withhold $7 billion in annual cost sharing reduction (CSR) payments that lowers consumers' deductibles and co-pays. The National Association of Insurance Commissioners wrote in a letter to Office of Management and Budget Director Mick Mulvaney in May 2017 that "the uncertainty of this funding (CSR payments) could add a 15-20% load to the rates or even more."

  - On March 29, 2017, Secretary Price refused to commit to continuing the payments during a congressional hearing.
  - On May 2, 2017, Office of Management and Budget Director Mick Mulvaney refused to commit to continue the CSR payments.
  - On May 11, 2017, in an interview with the Economist, President Trump said, "Plus we're subsidizing it and we don't have to subsidize it. You know if I ever stop wanting to pay the subsidies, which I will."
  - On May 22, 2017, the Trump Administration and House of Representatives asked a federal appeals court judge for another 90-day-delay in a lawsuit regarding CSR payments. The delay continues the uncertainty over the payments as insurers must determine ratings for 2018 by June 21. The Administration's decision to delay the lawsuit came after Trump reportedly told advisers in an Oval Office meeting he wants to end CSR payments.

- ***Instead of Improving Our Health Care System, President Trump Said Letting it Explode is Best Strategy***

  The President has made repeated comments suggesting the best strategy is to let our health care system fail. At the White House on March 24, 2017, the President said "the best thing we can do politically speaking is let Obamacare explode." The President was asked if he would let our health care system explode, and he responded: "Bad things are going to happen to Obamacare. There's not much you can do to help it. I've been saying that for a year and a half."

- ***Legislative Uncertainty***

  In May, the House of Representatives passed a bill that would allow states to opt-out of many consumer protections and raise out-of-pocket costs. An analysis released by the non-partisan Congressional Budget Office on May 24, 2017 found that the *American Health Care Act* would make health care more expensive and harder to access, particularly for those with pre-existing conditions, children, older Hoosiers and seniors. Senate Republicans have yet to unveil their health care legislation. This means that insurers are trying to plan for the 2018 health insurance market while the Trump Administration and Congressional Republicans are working to make significant changes to the system without any reliable indication of what a replacement might look like. Insurance markets, like most businesses, need certainty to thrive. This uncertainty makes it extremely difficult for insurance companies to plan for the future. As the Congressional Budget Office analysis indicates, "substantial uncertainty about how the new law would be implemented could lead insurers to withdraw from or not enter the nongroup market" for insurance purchased individually.

You Don't Have to Take Our Word For It

Indiana Insurers

NEW-Centene (insurer offering plans to Hoosiers as Celtic on the insurance marketplace) Chairman and CEO Michael Neidorff: "For 2018, a key challenge has been the uncertainty surrounding federal funding for cost-sharing reductions (CSRs)…Continuing these payments are essential for low-income individuals to afford their marketplace plans and also keep the overall market stable and forestall further insurer exits…There are a number of market stabilization tools that could help stabilize insurance markets." (Letter to Senator Donnelly, June 19, 2017)

NEW-Anthem (headquartered in Indianapolis) Chairman and CEO Joseph Swedish: "As I have stated publicly over the previous few months, without certainty of CSR funding – compounding the structural market challenges noted above – Anthem will have no choice but to reevaluate our approach to filing 2018 rates. Such adjustments could include reducing service area participation, requesting additional rate increases, eliminating certain product offerings, and/or exiting certain individual ACA-compliant markets altogether." Joe Swedish, Anthem (Letter to Senator Donnelly, June 12, 2017)

NEW-CareSource (insurer offering plans to Hoosiers through the insurance marketplace) President and CEO, Pamela Morris: "Many insurers, including CareSource, were beginning to see rates stabilize and anticipated only modest increases in consumer costs for the 2018 plan year. If there was certainty that CSR payments would be made, we estimate that there would be a 2.2% rate increase, in aggregate, from our 2017 to 2018 rates."

"…If the Administration stops paying CSRs, we estimate that the rates for our silver plans would increase by a minimum of 15%. In addition, we believe that ceasing CSR payments may adversely impact the risk pool (i.e., rising rates may lead to healthier consumers who can't afford the premium increases to drop out of the market, which results in a sicker pool remaining in the market), potentially leading to further increases in future years." (Letter to Senator Donnelly, June 9, 2017)

Anthem (headquartered in Indianapolis) explaining announcement that it will pull out of the Ohio insurance marketplace: "The lack of certainty of funding for cost sharing reduction subsidies…and…increasing lack of overall predictability simply does not provide a sustainable path forward to provide affordable plan choices for consumers." (Business Insider and Wall Street Journal, June 6, 2017)

Anthem (headquartered in Indianapolis) Chairman and CEO Joseph Swedish: "We are notifying our states that if we do not have certainty that CSRs will be funded for 2018 by early June, we will need to evaluate appropriate adjustments to our filing," Swedish said. Those adjustments could include resubmitting higher rates increases, "or exiting certain individual ACA-compliant markets altogether." (CNBC, April 26, 2017)

MDWise (Indiana-based) President/CEO James Parker: "…the loss of CSR funding would likely trigger significant losses for insurers like MDWise. MDWise agreed to offer coverage to our members with the expectation that lower premiums would be offset by the funding made possible through the cost sharing reduction payments. Absent these payments, MDWise will be forced to either increase premiums significantly or withdraw from the Marketplace Exchange." (Letter to Senator Donnelly, May 3, 2017)

Other Insurers and Organizations

U.S. Chamber of Commerce, AHIP, American Academy of Family Physicians, American Hospital Association, American Benefits Council, Blue Cross Blue Shield Association, American Medical Association, Federation of American Hospitals: "Unless CSRs are funded, a tremendous number of Americans will simply go without coverage and move to the ranks of the uninsured. This threatens not just their own health and financial stability, but also the economic stability of their communities." (Letter to Senate Leaders, May 19, 2017)

CareFirst BlueCross Blue Shield CEO Chet Burrell: "Failure to enforce the individual mandate makes it far more likely that healthier, younger individuals will drop coverage and drive up the cost for everyone. (CNN, May 5, 2017)

Blue Cross Blue Shield of Tennessee President and CEO JD Hickey: "Given the potential negative effects of federal or legislative and/or regulatory changes, we believe it will be necessary to price-in those downside risks, even at the prospect of a higher-than-average margin for the short term, or until stability can be achieved. These risks include but are not limited to the elimination of Cost Sharing Reduction subsidies (CSRs), the removal of the individual mandate and the collection of the health insurer tax." (Business Insider, May 9, 2017)

Blue Cross Blue Shield North Carolina: "The failure of the administration and the House to bring certainty and clarity by funding CSRs has caused our company to file 22.9 percent premium increase, rather than one that is materially lower. That will impact hundreds of thousands of North Carolinians." (Washington Post, May 26, 2017)

National Association of Insurance Commissioners Manager of Health Policy Brian Webb: "The biggest problem we have [for 2018] is uncertainty. Insurers hate uncertainty." (NBC News, May 8, 2017)

The Congressional Budget Office: "Several factors could lead insurers to withdraw from the market – including lack of profitability and substantial uncertainty about enforcement of the individual mandate and about future payments of the cost-sharing subsidies to reduce out-of-pocket payments for people who enroll in nongroup coverage through the marketplaces established by the ACA." (Congressional Budget Office, May 24, 2017)

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